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November 3, 1999

Seth H. Row  
Attorney  
Federal Election Commission  
999 "E" Street, N.W.  
Washington, DC 20463

Re: MUR 4742

Dear Seth:

This letter responds to the request for additional information contained in your letter of October 4, 1999. Your letter asks whether Mr. Remer and The Primacy Group had ever entered into a "deferred compensation" arrangement with other clients similar to the one that existed between Primacy and Vargas for Congress '96.

As I mentioned to you over the phone last week, although Mr. Remer cannot presently identify or recollect any other written agreements containing the language regarding "deferred compensation" that is included in the Vargas for Congress '96 agreement, as a practical matter, these types of arrangements occur in virtually every campaign that Mr. Remer has worked on, a fact that I, too, can vouch for as an attorney who has often provided legal services during the course of a campaign. Especially as the election draws closer and closer, there is incredible pressure on candidates and campaigns to spend all (or more) of their cash-on-hand for those "hard" costs necessary to communicate with voters. Many vendors — most notably the Postal Service, mail houses, broadcast media, and other businesses with no long-term or personal relationship with the candidate — will only operate on a cash-and-carry basis, and all available resources are therefore directed toward paying for these services. As a result, political consultants, attorneys, and campaign staff — those businesses and individuals who not only have likely developed a trusting and personal relationship with the candidate (and are therefore more confident that they will ultimately be paid), but who are also more likely to share in the campaign's desire to succeed in the election (and therefore willing to make sacrifices to that end) — are typically the last to be paid by the campaign.

It is therefore a rare campaign in which a political

consultant is not called upon as a practical matter to "defer" their compensation at some point in the campaign. In Primacy's case, this typically takes the form of the firm's billing the campaign for its monthly retainer, knowing (either implicitly from experience or by prior verbal agreement with the candidate) that the bill will not be paid (and is not required to be paid) until 30, 60, or even 90 days later, after the "hard" costs have been paid and the fundraising has caught up with the campaign's cash outlays. In many campaigns, it is merely an issue of a "time lag" between the dates the cash is expended and the dollars arrive from fundraising, so that Primacy's bills end up being paid in full by the date of the election or soon thereafter; in some cases, there may be a miscalculation in budgeting or for some other reason Primacy's unpaid bill ends up becoming a campaign "debt" that is paid off over time following the conclusion of the election, as was the case with the Vargas for Congress '96 committee.

It is therefore Primacy's standard practice, if not the entire "industry" standard, to defer payment for its monthly consulting services retainer until the latter part of a campaign, or until sufficient funds can be raised to pay the retainer fees. Such an arrangement is not really considered an "extension of credit" by the parties, because although it is denominated a "monthly retainer," payment is never really expected to be made on a monthly basis. Nor, for that matter, are the consulting services typically provided on a constant monthly basis; it is almost always the case that the consultant must put more time and effort into the campaign in the closing months. The "monthly retainer" device is really just a mechanism to "average out" the services over an extended period of time and to provide a fixed basis for both the campaign and candidate to rely upon in budgeting the cost of the political consultant.

Thus, the only difference between Primacy's "deferred compensation" fee structure with Vargas for Congress '96 and that typically entered into by Primacy with other candidates and campaigns is that the arrangement was explicitly memorialized in the written retention agreement between Primacy and Vargas for Congress '96. Mr. Remer's recollection is that he included this provision in the agreement with Councilman Vargas specifically in order to provide Councilman Vargas with the assurance that he did not have to worry about using whatever money he was able to raise early in the campaign simply to pay his political consultants, but that those monies could instead be used to pay for printing and distributing his campaign literature, setting up the campaign office, etc. Mr. Remer realized that if the campaign was to be successful, it was important to establish a "critical mass" by spending the cash on those "hard" costs first, which would raise Councilman Vargas' profile and, in turn, would assist in the

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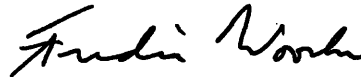
Seth Row, Esq.  
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fundraising effort and allow the campaign to grow over time, with the remainder of Primacy's fee not being due until the end of the campaign (when the majority of Primacy's services were to be provided in any event). As it turned out, of course, the fundraising did not go as well as had been anticipated, and it took longer for Vargas for Congress '96 to pay off Primacy's bill than anyone had expected.

You had also asked me last week what progress had been made by Vargas for Congress '96 in paying off its debts to the Primacy Group. This letter will confirm that as of August 30, 1999, the entire debt owed to Primacy, as well as to PG Printing and Graphics, had been paid in full.

I hope the above responds satisfactorily to all of your remaining inquiries and concerns, and that this matter can now finally be laid to rest for all involved.

Sincerely,



Fredric D. Woocher

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